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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,563	10/30/2001	Brian Lutz	D5235	6313

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EXAMINER

CHANG, CHING

ART UNIT PAPER NUMBER

3748

DATE MAILED: 03/24/2004

*12*

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/016,563

**Applicant(s)**

LUTZ, BRIAN

**Examiner**

Ching Chang

**Art Unit**

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on the Appeal Brief filed on Jan. 22, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,9 and 11-13 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 14-15, 17-19 is/are rejected.
- 7) ☒ Claim(s) 4 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

This Office action is in response to the Appeal Brief filed on January 22, 2004  
(Paper No. 11).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. ***Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Arnold (US Patent No. 1,438,937).***

Arnold discloses a valve actuation linkage mechanism for use in an internal combustion engine (See Fig. 1) comprising: a rocker arm (12) having a pivot rod cup; a valve bridge (14) having a pivot rod chamber; and a pivot rod (13) comprising a pivot head, wherein at least a part of the pivot rod head is pivotable within a pivot rod cup, and comprising a pivot rod body, wherein at least a part of the pivot rod body pivots in the pivot rod chamber.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. ***Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (as applied to claim 1 above) in view of Mallas (US Patent No. 4,850,315).***

Arnold discloses the invention, however, fails to disclose the said mechanism further comprising a pivot rod retainer.

The patent to Mallas on the other hand, teaches that it is conventional in the rocker and push rod art, to utilize a pivot rod retainer (76) to retain the pivot rod (10")

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the pivot rod retainer as taught by Mallas in the Arnold device, since the use thereof would provide an improved valve actuation mechanism.

5. ***Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (as applied to claim 1 above) in view of Yates (US Patent No. 6,463,898).***

Arnold discloses the invention, however, fails to disclose the said mechanism further comprising a pivot rod retainer.

The patent to Yates on the other hand, teaches that it is conventional in the retainer art, to utilize a pivot rod retainer (41) to retain a pivot rod (37).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the pivot rod retainer as taught by Yates in the Arnold device, since the use thereof would provide an improved valve actuation mechanism.

**6. Claims 2-3, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (as applied to claim 1 above) in view of Knickerbocker (US Patent No. 6,397,805).**

Arnold discloses the invention, however, fails to disclose the said mechanism further comprising a pivot rod retainer.

The patent to Knickerbocker on the other hand, teaches that it is conventional in the retainer art, to utilize a pivot rod retainer (500) having at least one pivot rod prong (521-526) and at least one securing orifice (between 511-513).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the pivot rod retainer as taught by Knickerbocker in the Arnold device, since the use thereof would provide an improved valve actuation mechanism.

7. ***Claims 5-7, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold in view of Knickerbrocker (as applied to claims 1, 2/1, and 14 above), and further in view of Perez et al. (US Patent No. 6,273,042).***

The modified Arnold device discloses the invention, however, fails to disclose the pivot rod comprising a pivot rod neck and the pivot rod and the pivot chamber being cooperated to form a contact line, and the pivot rod chamber further comprising a lubricant dimple.

The patent to Perez on the other hand, teaches that it is conventional in the rocker assembly art, to utilize a retainer (170) to restrain a pivot rod (122) through its pivot rod neck (134), in the meantime, the pivot rod being in line contact with a pivot rod chamber (160, 162), and the pivot rod chamber further comprising a lubricant dimple (148).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the improvement of the pivot rod neck, a line contact between the pivot rod and the pivot chamber, and a lubricant dimple in the pivot chamber as taught by Perez in the modified Arnold device, since the use thereof would provide an improved valve actuation mechanism.

***Allowable Subject Matter***

7. Claims 8-9, and 11-13 are allowed.

8. Claims 4, 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

9. Applicant's arguments filed on January 22, 2004 (Paper No. 11) with respect to claims 1-3, 5-7, 11-13, and 17-19 have been fully considered and are persuasive. The Final Rejection to this instant application mailed on August 22, 2003 has been withdrawn.

### ***Conclusion***

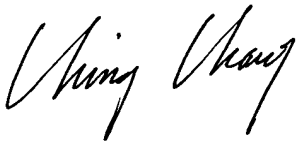
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ching Chang whose telephone number is (703)306-3478. The examiner can normally be reached on M-Th, 7:00 AM -5:00 PM.

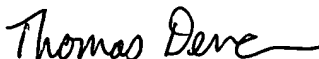
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703)308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner



Ching Chang



THOMAS DENION  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700